

Application Serial No. 10/544,098
Attorney Docket No. 10191/4212
Reply to Office Action of December 30, 2008

REMARKS

Claims 23 to 33 were added, and therefore claims 12 to 33 are pending.

In view of the following, it is respectfully submitted that all of the presently pending claims are allowable, and reconsideration is respectfully requested.

Applicants thank the Examiner for considering and making of record the Information Disclosure Statements filed on August 1, 2005, August 2, 2007, November 6, 2007, and October 2, 2008.

The specification was rewritten to correct minor errors. Approval and entry are respectfully requested.

Claims 14 and 16 were objected to for minor formalities. Claims 14 and 16 have been rewritten to address any such issues, and withdrawal of the objections is therefore respectfully requested. Approval and entry are respectfully requested.

Claims 12 to 22 were rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent Application No. 2003/0195676 (“Kelly”).

As regards the anticipation rejections of the claim, to reject a claim under 35 U.S.C. § 102, the Office must demonstrate that each and every claim feature is identically described or contained in a single prior art reference. (See Scripps Clinic & Research Foundation v. Genentech, Inc., 18 U.S.P.Q.2d 1001, 1010 (Fed. Cir. 1991)). As explained herein, it is respectfully submitted that the prior Office Action does not meet this standard, for example, as to all of the features of the claims. Still further, not only must each of the claim features be identically described, an anticipatory reference must also enable a person having ordinary skill in the art to practice the claimed subject matter. (See Akzo, N.V. v. U.S.I.T.C., 1 U.S.P.Q.2d 1241, 1245 (Fed. Cir. 1986)).

As further regards the anticipation rejection, to the extent that the Office Action may be relying on the inherency doctrine, it is respectfully submitted that to rely on inherency, the Examiner must provide a “basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristics *necessarily* flows from the teachings of the applied art.” (See M.P.E.P. § 2112; emphasis in original; and see *Ex parte Levy*, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Int'l. 1990)). Thus, the M.P.E.P. and the case law

make clear that simply because a certain result or characteristic may occur in the prior art does not establish the inherency of that result or characteristic.

Claim 12 is to a computer system *in a vehicle*, including: at least two computers that perform different tasks, *in which a distribution of the tasks among the at least two computers takes place according to a significance of functions for a driving of the vehicle*, the functions including driving-related functions that are implemented in a first computer of the at least two computers, and non-driving-related functions that are implemented in a second computer of the at least two computers.

As to cited Figure 5 (PC Computer 48 and Computer 18), PC Computer 48 is not “in a vehicle,” nor does it form any part of the actual Kelly system. As paragraph 52 of Kelly clearly states, “[s]oftware programming is developed *on a remote personal computer 48* so that there is enough memory to hold the development software *that generates the software used in the system*. Computer 48 also debugs the software prior to running, as is standard procedure for these types of computers. *Temporary connection from computer 48 to computer 18 is made through cable 49* and connected at port 31 to download the program to the computer 18. Software is downloaded from computer 48 to computer 18 to change the software or a when a new program is needed.” (Kelly, para. 52) (emphasis added). Clearly, PC Computer 48 is not part of “a computer system in a vehicle”, in which a “distribution of the tasks among the at least two computers takes place according to a significance of functions for a driving of the vehicle”, as provided for in the context of the presently claimed subject matter.

Further, cited paragraph 52 makes no mention of “receiv[ing] driving function from bus 47 and 51.” Element 48 is not connected to 47 nor to 51. In fact, element 47 is not a bus at all, but is referred to in cited paragraph 51 as a “power cable 47.” Further, “magnetic card reader 19 is attached to computer 18 through cable 51,” but nowhere is an interconnect between cable 51 and computer 48 disclosed. (Kelly, para. 54). It is therefore respectfully submitted that Fig. 5 simply does not disclose the asserted characteristics – which in fact are wholly missing.

Accordingly, claim 12 is allowable, as are its dependent claims 13 to 22.

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New claims 23 to 33 do not add any new matter and are supported by the present application, including the specification. Claims 23 and 33 include features like those of the other independent claims, and are therefore allowable for essentially the same reasons, as are dependent claims 24 to 32 which depend from claim 23. Further claim 23 includes a feature in which “the system [is] configured to distribute driving-related functions to the first processing unit and the second processing unit, based at least in part on an availability of the respective processing units.” This feature is wholly absent from the Kelly reference, so that claim 23 is allowable for this further reason, as are its dependent claims 24 to 32.

Accordingly, claims 12 to 33 are allowable.

CONCLUSION

In view of the above, it is respectfully submitted that all of the presently pending claims 12 to 33 are allowable. It is therefore respectfully requested that the rejections and objections be withdrawn, since they have been obviated. Since all issues raised have been addressed, an early and favorable action on the merits is respectfully requested.

Respectfully Submitted,

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